

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Grace New England, et al.,

*

*

Plaintiffs,

*

v.

*

Docket No. 1:24-cv-00041-PB-AJ

*

*

Weare, NH, Town of, et al.,

*

*

Defendants.

*

DEFENDANTS' OBJECTION
TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Defendants, the Town of Weare, New Hampshire, Craig Francisco, and Tony Sawyer, by and through counsel, Gallagher, Callahan & Gartrell, P.C., hereby submit this Objection to Plaintiffs' Motion for Summary Judgment, and state as follows:

1. Plaintiffs, Howard Kaloogian and Grace New England Church (collectively, the "Church"), have moved for summary judgment as to all claims.
2. No reasonable trier of fact could find for Plaintiffs on Count I – violation of the Free Exercise Clause of the First Amendment – because Plaintiffs have not credibly established that their religious exercise has been burdened, nor have they demonstrated any law that lacks neutrality or general applicability.
3. No reasonable trier of fact could find for Plaintiffs on Count II – violations of the Substantial Burden provision of RLUIPA – because Plaintiffs have not credibly established that their religious practices have been substantially burdened by any activity attributable to the Defendants.

4. No reasonable trier of fact could find for Plaintiffs on Count III – violations of the Equal Terms provision of RLUIPA – because Plaintiffs have failed to credibly identify a secular comparator with a high-degree of similarity that has received more favorable treatment.
5. No reasonable trier of fact could find for Plaintiffs on Count IV – violations of RSA 674:76 – because this Court lacks jurisdiction to hear a local land use dispute, the claim is not ripe, and Plaintiffs rely on a faulty facial and as-applied reading of the statute.
6. No reasonable trier of fact could find for Plaintiffs on Count V – violations of Part I, Article 5 of the New Hampshire Constitution – because Plaintiffs have not credibly established that their religious exercise has been limited in any way.
7. The Defendants submit and incorporate, by reference, a supporting memorandum of law and supplemental appendix of the evidentiary record in support of this Objection. *See* Local Rule 7.1(a)(2).
8. Given the dispositive nature of this pleading, the Defendants did not seek Plaintiffs' concurrence with respect to the relief requested herein. *See* Local Rule 7.1(c).

WHEREFORE, the Town of Weare, New Hampshire, Craig Francisco, and Tony Sawyer, respectfully request that this Honorable Court:

- A. Deny Plaintiffs' Motion for Summary Judgment; and
- B. Grant such further relief as justice may require.

Respectfully submitted,

**TOWN OF WEARE, NEW HAMPSHIRE
CRAIG FRANCISCO
TONY SAWYER**

By Their Attorneys,

Gallagher, Callahan & Gartrell, P.C.

Dated: April 28, 2025

/s/ *Emily C. Goering*

Emily C. Goering, NH Bar No. 268497
Robert J. Dietel NH Bar No. 19540
214 North Main Street
Concord, NH 03301
603-545-3613 / 603-545-3613
Goering@gcglaw.com
Dietel@gcglaw.com

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was transmitted this date via electronic mail to all counsel of record.

Dated: April 28, 2025

/s/ *Emily C. Goering*

Emily C. Goering